

Addendum 2 — External Complaint Procedures for Federally Assisted Programs and Activities

These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964 (including its Disadvantaged Business Enterprises (DBE), Equal Employment Opportunity (EEO) and On-the-Job Training (OJT) Program components) Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans with Disabilities Act of 1990, regarding any program or activity administered by WSDOT as they relate to local agencies, contractors and other sub recipients of USDOT funds. These procedures apply to complaints filed against a program and/or activity funded by either the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) or the Federal Aviation Administration (FAA).

Intimidation or retaliation of any kind is prohibited per Title 49, Code of Federal Regulations, Part 21.11(e).

The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

These procedures are part of an administrative process, which do not provide for remedies that include punitive damages or compensatory remuneration for the complainant.

Every effort will be made to obtain early resolution of complaints at the lowest level possible. The option of informal mediation meeting(s) between the affected parties and the investigator may be utilized for resolution, at any stage of the process. The investigator will make every effort to pursue a resolution of the complaint. Initial interviews with the complainant and the respondent will request information regarding specifically requested relief and settlement opportunities.

Procedures

1. Any individual, group of individuals or entity that believe they have been subjected to discrimination prohibited by Title VI nondiscrimination provisions may file a written complaint with the Washington State Department of Transportation's (WSDOT's) Office of Equal Opportunity (OEO). A formal complaint must be filed within 180 calendar days of the alleged occurrence or when the alleged discrimination became known to the complainant. The complaint must meet the following requirements:

- a. Complaint shall be in writing and signed by the complainant(s).
- b. Present the date of the alleged act of discrimination (date when the complainant(s) became aware of the alleged discrimination; or the date on which that conduct was discontinued or the latest instance of the conduct).

- c. Present a detailed description of the issues including names and job titles of those individuals perceived as parties in the complained-of incident.
 - d. Allegations received by fax or e-mail will be acknowledged and processed. Once the identity(ies) of the complainant(s) and the intent to proceed with the complaint have been established. For this, the complainant is required to mail a signed, original copy of the fax or e-mail transmittal for OEO to be able to process it.
 - e. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. A complaint form will be forwarded to the complainant for him/her to complete, sign and return to OEO for processing.
2. Upon receipt of the complaint, OEO will determine its jurisdiction, acceptability, need for additional information, and investigative merit of the complaint. In cases where the complaint is against one of WSDOT's sub recipients of federal highway funds, the Department will assume the jurisdiction and will investigate and adjudicate the case. Complaints against WSDOT will be referred to the corresponding USDOT modality for proper disposition. In special cases warranting intervention to ensure equity, the USDOT modality may assume jurisdiction and either complete or obtain services to review or investigate matters.
3. Acceptance of a complaint will be determined by:
 - a. Whether the complaint is timely filed;
 - b. Whether the allegations involve a covered basis such as race, color, national origin, gender, disability or retaliation;
 - c. Whether the allegations involve a program or activity of a Federal-aid recipient, sub recipient, or contractor; or, in the case of ADA allegations, an entity open to the public;
 - d. The complainant(s) acceptance of reasonable resolution based on the Department's administrative authority (reasonability to the determined by OEO).
4. A complaint may be dismissed for the following reasons:
 - a. The complainant requests the withdrawal of the complaint;
 - b. The complainant fails to respond to repeated requests for additional information needed to process the complaint;
 - c. The complainant cannot be located after reasonable attempts.
5. OEO has sole authority for accepting complaints for investigation. Once OEO decides to proceed with the investigation the complainant and the respondent will be notified in writing of such determination within five calendar days. The complaint will receive a case number and then logged in OEO's records identifying its basis, alleged harm, the race, color, national origin and gender of the complainant(s).

6. In cases where WSDOT assumes the investigation of the complaint, OEO will provide the respondent with the opportunity to respond to the allegations in writing. The respondent will have 10 calendar days from the date of OEO's written notification of acceptance of the complaint to furnish his/her response to the allegations.
7. Within 40 calendar days of the acceptance of the complaint, the WSDOT's investigator* will prepare an investigative report for the review of the External Civil Rights Branch (ECRB) Manager and the Attorney General's Office (AGO). The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition. The ECRB Manager and the AGO will have 10 calendar days to review and provide comments to the investigator.

* This can be WSDOT's Title VI Coordinator; the Regional Title VI Liaison or any other qualified investigator designated by OEO.

8. Once the investigator addresses any comments to the preliminary investigative report, the report and its findings will be forwarded to the Attorney General's Office (AGO) for review. The AGO will review the report and associated documentation and will provide input within 10 calendar days.
9. Any comments or recommendations from the AGO will be reviewed by the ECRB Manager. There will be a period of 10 calendar days for the ECRB Manager to discuss the report and any recommendations with the OEO Director, and have the Title VI Coordinator address any modifications to the existing investigative report. The report will be modified as needed and made final for its release to the corresponding USDOT modality (FHWA, FTA or FAA).
10. WSDOT's final investigative report and a copy of the complaint will be forwarded to either FHWA, FTA or FAA, within 60 calendar days of the acceptance of the complaint.
11. WSDOT OEO will notify the parties of its preliminary findings, which are subject to the corresponding USDOT modality's concurrence.
12. The corresponding USDOT modality will issue the final decision to WSDOT based on the state's investigative report.
13. Once the corresponding USDOT modality issue its final decision, WSDOT will notify all parties involved about such determination. USDOT's final determination is not subject to an appeal.
14. FHWA will also serve as the appealing forum to a complainant that is not satisfied with the outcome of an investigation conducted by a WSDOT sub recipient. FHWA will analyze the facts of the case and will issue its conclusion to the appellant according to their procedures.

As revised on 3/11/03